

1 LOIS D. THOMPSON, Cal. Bar No. 093245 (Admitted Pro Hac Vice)
lthompson@proskauer.com
2 JENNIFER L. ROCHE, Cal. Bar No. 254538 (Admitted Pro Hac Vice)
jroche@proskauer.com
3 PROSKAUER ROSE LLP
2049 Century Park East, 32nd Floor
4 Los Angeles, California 90067-3206
Telephone: (310) 557-2900
5 Facsimile: (310) 557-2193

6 NANCY RAMIREZ, Cal. Bar. No. 152629 (Admitted Pro Hac Vice)
nramirez@maldef.org
7 MEXICAN AMERICAN LEGAL DEFENSE AND
EDUCATIONAL FUND (MALDEF)
8 634 S. Spring St.
11th Floor
9 Telephone: (213) 629-2512 ext. 121
Facsimile: (213) 629-0266

10 Attorneys for Mendoza Plaintiffs
11

12 UNITED STATES DISTRICT COURT
13 FOR THE DISTRICT OF ARIZONA
14

15 Roy and Josie Fisher, et al.,

16 Plaintiffs,

17 v.

18 United States of America,

19 Plaintiff-Intervenors,

20 v.

21 Anita Lohr, et al.,

22 Defendants,

23 Sidney L. Sutton, et al.,

24 Defendant-Intervenors,
25
26
27
28

Case No. 4:74-CV-00090-DCB

**MENDOZA PLAINTIFFS'
MEMORANDUM IN SUPPORT OF
OBJECTIONS ASSERTED TO JOINT
PROPOSED UNITARY STATUS
PLAN FILED NOVEMBER 9, 2012;
DECLARATION OF LOIS D.
THOMPSON**

1 Maria Mendoza, et al.,

2 Plaintiffs,

3 United States of America,

4 Plaintiff-Intervenor,

5 v.

6 Tucson United School District No. One, et
7 al.,

8 Defendants.

Case No. CV 74-204 TUC DCB

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1 Introduction

2 The Mendoza Plaintiffs file this memorandum to set forth the legal and factual
3 bases for objections they asserted to the Joint Proposed Unitary Status Plan Noting Areas
4 of Party Disagreement that was filed with the Court on November 9, 2012. As this Court
5 knows, the parties engaged in long and arduous negotiations to formulate a proposed
6 Unitary Status Plan (“USP” or “the Plan”) with which all parties are in substantial
7 agreement. They engaged in that process mindful of this Court’s view, with which they
8 concurred, that a plan for unitary status is most likely to succeed if it is jointly prepared.
9 Nonetheless, when the parties’ efforts at negotiation and compromise had concluded, the
10 Mendoza Plaintiffs found it necessary to assert objections to certain aspects of the Plan as
11 drafted.

12 The Mendoza Plaintiffs’ objections address what they perceive to be three failings
13 of the Plan which they believe can be readily remedied (and they have proposed
14 alternative language to affect such remedies): (1) in certain areas, specifically relating to
15 closing the achievement gap for Latino and African American students and reducing their
16 disproportionate experience of more severe disciplinary outcomes than white students,
17 the Plan fails adequately to comply with this Court’s direction that it include
18 “[m]easurable standards of compliance, goals,...[and] benchmarks of progress” (Order
19 Appointing Special Master, Docket No. 1350, filed 1/6/12 at 5:23-24 (“1/6/12 Order));
20 (2) notwithstanding this Court’s recognition that when “ ‘minority students are
21 misclassified, segregated, or inadequately served, special education can contribute to a
22 denial of equality of opportunity’ ” (Order filed 4/24/2008, Docket No. 1270, at 24:24-27
23 (“4/24/2008 Order”); citations omitted), the Plan gives inadequate attention to what
24 District data indicates is the disparate treatment of members of the plaintiff classes who
25 are classified as special education students; nor does the Plan provide special education
26 students who are otherwise qualified adequate opportunity to participate in the advanced
27 learning experiences that are addressed in the Plan; and (3) dates set in the Plan do not
28 provide the individual who will hold the very important position of Coordinator of

1 Culturally Relevant Pedagogy and Instruction created by the Plan adequate time to
2 provide essential training and support mandated by the Plan.

3 **A. The Draft Plan Fails to Set Sufficient Goals**

4 1. GATE

5 The Plan addresses access to and support in what it refers to as Advanced
6 Learning Experiences (GATE, pre-AP, AP courses, etc.) starting at page 23. In the
7 subsection on GATE, it says that the Coordinator of Advanced Learning Experiences
8 (“ALE”) is to develop a plan to “[i]ncrease the number and percentage of African
9 American and Latino students, including ELL students, receiving GATE services...”
10 (Plan at 26, Sec. V(A)(3)(a)(i).) But it is silent about what that increase should be.

11 The Mendoza Plaintiffs believe that the Plan provision is too general and non-
12 specific and that the District must be held to a higher standard of achievement in this
13 critical area before it can be declared unitary. However, the Mendoza Plaintiffs also
14 recognize that a specific goal should be set in the context of the overall plan that the ALE
15 Coordinator is to develop. Accordingly, they have proposed the following language:

16 The ALE Coordinator shall propose annual goals to steadily
17 increase the number and percentage of African American and
18 Latino students, including ELL and exceptional (special
education) students¹, who receive GATE services each year.

19 Plan at 26, Comment 11.

20 It is noteworthy that the Fisher Plaintiffs have voiced a similar objection and
21 propose that the Plan set percentage goals for increasing access by and retention of
22 African American and Latino students in ALEs. See Plan at 23, noting Fisher Plaintiffs’
23 objection. Thus, both plaintiff classes share the concern that, as written, the Plan lacks
24 specificity in a critically important area and fails to comply with this Court’s directive
25 that the USP include “[measureable standards of compliance, goals...[and] interim
26 benchmarks of progress.” (1/6/12 Order at 5:23-24.)

27
28 ¹ Addition of language like that proposed above to address special education students is
separately addressed in the next section.

2. Advanced Academic Courses (AACs)

The Plan as drafted also calls on the ALE Coordinator to develop a plan to “[i]ncrease the number and percentage of African American and Latino students, including ELL students, enrolled in AACs,” that is pre-AP, AP, dual credit, and International Baccalaureate courses. (Plan at 26, Sec. V(A)(4)(a)(i).) And, as with the GATE plan, the USP is silent about what the increase is to be. Accordingly, the Mendoza Plaintiffs proposed language parallel to what they proposed with respect to GATE. See, Plan at 26, Comment A12. For the reasons set forth above with respect to GATE, the Mendoza Plaintiffs respectfully suggest that their proposed language concerning annual goals to increase the number and percentage of African American and Latino students, including ELL and exceptional (special education) students², enrolled in ACCs should be added to the Plan and to the Order to be entered by this Court.

3. Graduation Rates

The Plan addresses Dropout Prevention and Retention commencing at page 29. Acknowledging the importance of goals (and thereby supporting the argument the Mendoza Plaintiffs make above), this section of the Plan does state that the District is to “[d]evelop[] yearly goals for lowering dropout rates, increasing graduation rates, and reducing retentions in grade for African American and Latino students, including ELLs, in each high school....” (Plan at 29-30, Sec. V(C)(2)(c)(i).) However, in the context of both the urgency of the problem and the available data, it does not go far enough. Therefore, the Mendoza Plaintiffs propose the addition of the following language to the language just quoted:

with an overall goal of raising the graduation rates of African American and Latino students to at least 88%, the average graduation rate for the district’s white students in the 2008-2011 school years, by 2017.

Plan at 30, Comment A15.

² Addition of language like that referenced above to address special education students is separately addressed in the next section.

Appendix H to the Plan sets forth the graduation rates, disaggregated by race, ethnicity, ELL, exceptional (special education) status, and a number of other factors for the 2008-2011 school years. It shows that the average graduation rate for African American students was about 78.7% in that period and the average graduation rate for Latino students was 80%, while the average graduation rate for white students was just over 88%.³ It is in the context of these numbers that the Mendoza Plaintiffs proposed the overall minimum goal set forth above.

4. Discipline

The Plan provides that the “District shall reduce racial and ethnic disparities in the administration of school discipline” (Plan at 39, Sec. VI(A)(2)) but fails to call out any specific disciplinary actions for attention or set any standards of compliance or benchmarks of progress. (1/6/12 Order at 5:23-24.) Yet, the data as reflected in Appendix I to the Plan reveals that while the details vary among grade levels, African American and Latino students are suspended at disproportionately high rates compared to white students. The Mendoza Plaintiffs therefore propose that the following language be added to the Plan language quoted above:

with particular focus on materially reducing the relative rate at which African American and Latino students experience in-school and out-of-school suspension as compared to the District’s white students.

Plan at 39, Comment A21.

³ The graduation rates for ELL students and for exceptional (special education) students are notably lower (see Appendix H) and plainly require both attention and action. However, in the absence of more information, the Mendoza Plaintiffs were unable to propose a specific goal for ELL and special education student graduation rates by 2017. They will instead carefully monitor the plan to lower dropout rates and increase graduation rates and the annual goals that are to be proposed by the District to ensure the District focuses on the needs of these particular students.

B. The Draft Plan Fails to Address the Particular Needs of Class Members Who Are Classified as Special or Exceptional Education Students

This Court has explicitly recognized the District's obligation as part of its compliance with its desegregation obligations under the Settlement Agreement to provide data and to take action with respect to members of the plaintiff classes who are categorized as special or exceptional education students. When the Court reviewed the District's performance under the Settlement Agreement, it stated that requests by the ICC (the Independent Citizens Committee created to monitor District compliance with the Settlement Agreement) for data and analysis that would indicate "whether or not minority students were disproportionately represented within any Special Education area" (4/24/2008 Order at 25:1-3), were "legitimate inquiries,...necessary to assess the effectiveness of TUSD's magnet and open enrollment programs to integrate TUSD's schools and afford minority students an equal educational opportunity." (*Id.* at 25:4-6.)

As noted above, the Court also quoted approvingly the following language from an ICC Compliance Report: "To the extent that minority students are misclassified, segregated, or inadequately served, special education can contribute to a denial of equality of opportunity." (*Id.* at 24:23-27.) After assessing information concerning special education placement that the District filed in the context of the unitary status proceedings, the Court "conclude[d] that over the past 27 years the [District] has failed to comprehensively assess its GATE, Advanced Placement, or Special Education programs with an eye for determining over or under-representation by minority students to identify and rectify any access problems." (*Id.* at 27:21-28:2.)

Through their objections to the Plan, the Mendoza Plaintiffs seek to require the District finally to undertake that long overdue action with respect to its special education

1 programs⁴. The Mendoza Plaintiffs have asserted the following objections relating to
 2 special or exceptional education:

3 On page 24, the Mendoza Plaintiffs have proposed language to direct that the
 4 mandated assessment of all Advanced Learning Experiences (“ALEs”) include within the
 5 disaggregated data on current enrollment that is to be collected special
 6 education/exceptional education status so that all parties can assess whether and to what
 7 extent otherwise qualified special/exceptional education African American and Latino
 8 students are being afforded the opportunity to participate in these class experiences and,
 9 if not, whether and to what extent issues of outreach, access and assessment need to be
 10 addressed.

11 At noted above, on page 26 of the Plan, the Mendoza Plaintiffs have proposed
 12 language that would have the ALE Coordinator include within the annual goals for the
 13 number of Latino and African American students to receive GATE services and enroll in
 14 ACCs (Advanced Academic Courses) express goals for exceptional (special education)
 15 students. The setting of such goals is critical if the District is finally to address the issue
 16 this Court articulated in its 2006 Order: by assessing the data “with an eye for
 17 determining over or under-representation by minority students to identify **and rectify**
 18 **access** problems,” African American and Latino students, including “special” education
 19 students, should be afforded “equal access to curriculum...” (4/24/2008 Order at 27:2-4;
 20 emphasis added.)

21 On page 28, the Mendoza Plaintiffs propose that the following requirement be
 22 added:

23 The District shall review its referral, evaluation and
 24 placement policies and practices on an annual basis to ensure
 25 that African American and Latino students, including ELL
 students, are not being inappropriately referred, evaluated or
 placed in exceptional (special) education classes or programs.

26
 27 ⁴ The Mendoza Plaintiffs do not further address the GATE and Advanced Placement
 28 programs also referenced in the portion of the Court’s decision quoted above because, as
 indicated earlier in this filing, but for the fact that the Plan as presented fails to set
 adequate goals, it does contain provisions that are intended to identify and rectify access
 problems relating to those programs.

1 Plan at 28, Comment A14.

2 The Mendoza Plaintiffs have not received all of the information they requested
3 relating to the placement of African American and Latino students in exceptional
4 (special) education programs⁵. Therefore, they do not know the full extent of the
5 problems that may exist. However, what information they have been provided suggests
6 that there may well be disparate placement of African American and Latino students in
7 certain exceptional (special) education classes or programs and that the District therefore
8 must be required in the first instance to report so that all disparate treatment revealed can
9 be addressed and redressed.

10 As more fully explained in the accompanying Declaration of Lois D. Thompson
11 (“Thompson Dec.”), in August, 2012, in response to a request that the Mendoza
12 Plaintiffs had made through the Special Master, the District provided summary data on
13 special education placements for the 2011-12 school year. (A copy of that information is
14 attached to the Thompson Dec. as Exhibit A.) The District also suggested that the data
15 indicated no disproportionate representation of African American and Latino students in
16 overall enrollment in special education programs. While that may be the case with
17 respect to the total numbers, the Mendoza Plaintiffs’ analysis suggests a quite different
18 picture in the categories that account for the largest number of special education students:
19 specific learning disability and speech language impairment. (Of the total of 7118 special
20 education students in the District, 4431 fall within these two categories; the others are
21 spread among 15 other categories.) The Mendoza Plaintiffs applied the same analytical
22 tool that had been applied by the ICC when it reviewed data while monitoring the
23 District’s compliance with the Settlement Agreement (an adverse impact ratio analysis)
24 and found that African American and Latino students (as well as Native American
25

26 ⁵ Among other things the data that has been provided does not separately report self-
27 contained (as compared to resource) placements and does not break out ELL students
28 within the categories of the placements and services reported. Absent such information
one cannot determine if African American and Latino students are disproportionately
placed in self-contained programs or whether ELL students are disproportionately
receiving services in the category “speech and language impaired.”

1 students) are disproportionately represented in the special learning disability category.
 2 Applying that same analytical tool, they found that Latino (and Asian and multi-racial)
 3 students are disproportionately represented in the speech and language impaired
 4 category.⁶ With respect to this category in particular, they believe that additional
 5 examination is warranted to determine if ELL students are included in this category at a
 6 greater rate than students for whom English is their first and principal language.

7 The data described above and the questions it raises warrant inclusion in the Plan
 8 of the provision quoted above mandating that the District review on an annual basis its
 9 referral, evaluation and placement policies and practices to ensure that African American
 10 and Latino students, including ELL students, are not being inappropriately referred,
 11 evaluated or placed in exceptional (special) education classes or programs. For the same
 12 reasons, the District should be required to report each year on actual placements into
 13 exceptional (special) education services. Therefore, the Mendoza Plaintiffs also seek
 14 addition of the following language on page 38 of the Plan (which lists the reports to be
 15 submitted by the District to the parties and the Special Master):

16 t. A report setting forth the number and percentage of
 17 students receiving exceptional (special) education services by
 18 area of service/disability, school, grade, type of service (self-
 contained, resource, inclusion, etc.), ELL status, race and
 ethnicity.

19 **C. The Plan Does Not Provide Adequate Time for the Coordinator of**
 20 **Culturally Relevant Pedagogy and Instruction to Do His/Her Job**

21 The Plan provides for an important new position: the Coordinator of Culturally
 22 Relevant Pedagogy and Instruction ("CRPI Coordinator"). (Plan at 32, Sec. V(C)(4)(c).)

23 Among other responsibilities, the CRPI Coordinator is to develop and implement a
 24 professional development plan for administrators, certified staff and paraprofessionals on
 25 how best to deliver courses of instruction that focus on the cultural and historical

26 _____
 27 ⁶ They also found that African American and Latino students appear to be
 28 disproportionately represented in the mild mental retardation category. The District
 reports 333 students in this category. Together, the three categories discussed represent
 approximately 67% of the special (exceptional) education "enrollments" in the District in
 the 2011-2012 school year.

1 experiences and perspectives of African American and Latino communities and to engage
2 African American and Latino students.

3 The Plan mandates that by the start of the 2013-2014 school year, that is, by early
4 August 2013, the District, acting through the CRPI Coordinator and others, shall have
5 provided administrators and certified staff with training on how to create supportive and
6 inclusive learning environments for African American and Latino students with an
7 emphasis on curriculum, pedagogy and cultural competency. But, as drafted, the Plan
8 does not require the District to have the requisite staff to support the CRPI Coordinator
9 and to assist with the mandated training until July 1, 2013.

10 The Mendoza Plaintiffs believe that that July 1 date does not permit adequate time
11 to accomplish the preparation and training that the Plan mandates and ensure that
12 properly trained teachers and administrators will be in place by the start of the 2013-2014
13 school year. It is for that reason that they have asserted an objection and proposed that
14 the July 1, 2013 date in the Plan be changed to April 1, 2013. (They selected that April
15 date both because it appeared to permit adequate time and because it is consistent with
16 other provisions of the Plan that impose an April 1, 2013 date for other activity mandated
17 by the Plan.)

For the reasons set forth above and in the accompanying Thompson Dec., the Mendoza Plaintiffs request that the Court sustain their objections to the Plan and direct inclusion in the Plan of the language they have proposed to address those objections.

Dated: November 9, 2012

MEXICAN AMERICAN LEGAL DEFENSE
AND EDUCATIONAL FUND
NANCY RAMIREZ

10

DECLARATION OF LOIS D. THOMPSON

1
2 1. I am an attorney admitted to practice in the State of California and admitted
3 *pro hac vice* in this matter to represent the Mendoza Plaintiffs together with Nancy
4 Ramirez, Western Regional Counsel for the Mexican American Legal Defense and
5 Educational Fund ("MALDEF"). I submit this declaration in support of the Mendoza
6 Plaintiffs' objections to the Joint Proposed Unitary Status Plan filed November 9, 2012. I
7 have personal knowledge of the facts set forth below and, if called as a witness, could and
8 would testify to these facts.

9 2. During the period when the parties were working with the Special Master to
10 fashion the Unitary Status Plan ("USP"), the Mendoza Plaintiffs requested certain
11 information from the District. One of those requests related to the race, ethnicity and
12 ELL status of special (exceptional) education students in the District by category, school
13 level, and type of service provided (*e.g.*, self-contained, resource, etc.).

14 3. The District did not provide information with the specificity that had been
15 sought; however, it did provide certain of the requested information. Attached as Exhibit
16 A is a copy of the data provided by the District concerning the number of special
17 (exceptional) education students in the District in the 2011-2012 school year broken
18 down by race, ethnicity and category of special (exceptional) education.

19 4. At my request, Sylvia Campoy, who has served as a representative of the
20 Mendoza Plaintiffs in this matter, reviewed Exhibit A. Ms. Campoy previously served on
21 the Independent Citizens Committee ("ICC") created pursuant to the Settlement
22 Agreement in this matter to monitor the District's performance under that Agreement. In
23 2005, the ICC prepared a report to the Court. As part of that report, the ICC reviewed
24 and analyzed data concerning special education.

25 5. The ICC performed an adverse impact ratio analysis. As explained by the
26 ICC (at page 63 of its report):

27 The calculations shown are based on the adverse impact ratio
28 formula (for negative actions). This methodology is utilized
by agencies such as the Office of Federal Contract
Compliance and the Equal Employment Opportunity

Commission. The methodology is utilized to determine if disparity is found when comparing one group to another, such as minority group to non-minority group. The comparisons are made for both positive and negative actions. (While the appropriate placement of students in special education is not a negative action, historically, the over-representation of minorities in special education has been recognized as being discriminatory and harmful.) The ratio of occurrence (in this case, placement in special education programs) is calculated within each group. If the ratio for any ethnic or racial group is greater (for negative actions) than for the non-minority group, further calculation is conducted. The rate for the minority group is divided by the rate for the non-minority group. If the result is greater than 120%, adverse impact/disparity is indicated.

6. Ms. Campoy analyzed the information on Exhibit A performing the same type of adverse impact ratio analysis that she previously had performed of special education data while part of the ICC. Attached as Exhibits B, C and D are tables setting forth the analyses that Ms. Campoy performed of the specific learning disability, speech and language impaired, and mild mental retardation categories.

7. These analyses indicate adverse impact with respect to the placement of African American, Latino, and Native American students in the specific learning disability category; adverse impact with respect to the placement of Latino, Asian, and multi-race students in the speech and language impaired category; and adverse impact with respect to the mild mental retardation category.

8. Exhibit A indicates that in 2011-2012, 7118 District students were "enrolled" in special (exceptional) education. Of those 7118, 3253 were in the category specific learning disability, 1178 were in the category speech and language impaired, and 333 were in the category mild mental retardation. These three categories therefore account for approximately 67% of the special (exceptional) education placements in 2011-2012.

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I declare under penalty of perjury under the laws of California and Arizona that
the foregoing is true and correct.

Dated: November 9, 2012

s/ Lois D. Thompson
Lois D. Thompson

EXHIBIT A

Self-Contained Special Education Counts (100th Day) by Category and Comparative Ethnic/Racial Coding Strategies - 2011-12

Category Abbreviation	Hispanic Latino (Yes,No)	Total	Mutually Exclusive - Backward Compatible to etc_code						Student Can Mark More Than One				
			White etc_code 01	Black etc_code 02	Hispanic etc_code 03	Native American etc_code 04	Asian etc_code 05	Multi-Racial etc_code 06	White	Black	Native American	Asian	Pacific Islander
Autism	No	143	112	13	0	4	5	9	121	16	6	8	4
	Yes	141	0	0	141	0	0	0	127	10	11	3	0
Developmental Delay	No	35	16	6	0	5	2	6	21	11	5	3	2
	Yes	49	0	0	49	0	0	0	42	4	5	0	1
Emotional Disability	No	108	70	21	0	7	0	10	79	27	10	1	1
	Yes	73	0	0	73	0	0	0	64	6	5	1	1
Emotional Disability Profound (special	No	36	25	5	0	1	0	5	29	9	3	0	0
	Yes	15	0	0	15	0	0	0	13	0	3	0	1
Hearing Impairment	No	2	1	1	0	0	0	0	1	1	0	0	0
	Yes	4	0	0	4	0	0	0	4	0	0	0	0
Multiple Disabilities	No	32	18	4	0	4	3	3	21	5	5	3	1
	Yes	45	0	0	45	0	0	0	43	0	2	0	0
Multiple Disabilities Severe Sensory	No	14	10	3	0	1	0	0	10	3	1	0	0
	Yes	9	0	0	9	0	0	0	9	0	0	0	0
Mild Mental Retardation	No	121	72	22	0	19	2	6	78	25	20	3	1
	Yes	155	0	0	155	0	0	0	136	6	13	2	1
Moderate Mental Retardation	No	36	23	7	0	4	2	0	23	7	4	1	1
	Yes	78	0	0	78	0	0	0	72	1	5	0	2
Other Health Impaired	No	54	36	9	0	4	2	3	39	12	4	1	1
	Yes	46	0	0	46	0	0	0	41	1	4	0	2
Orthopedically Impaired	No	5	4	1	0	0	0	0	4	1	0	0	0
	Yes	13	0	0	13	0	0	0	12	1	0	0	0
Specific Learning Disability	No	37	20	6	0	9	1	1	21	7	10	0	1
	Yes	51	0	0	51	0	0	0	45	2	6	0	0
Speech Language Impairment	No	0	0	0	0	0	0	0	0	0	0	0	0
	Yes	0	0	0	0	0	0	0	0	0	0	0	0
Severe Mental Retardation	No	12	6	3	0	0	3	0	6	3	0	2	1
	Yes	7	0	0	7	0	0	0	7	0	0	0	0
Vision Impairment	No	5	2	0	0	2	1	0	2	0	2	1	0
	Yes	0	0	0	0	0	0	0	0	0	0	0	0
Total		1326	415	101	686	60	21	43	1070	65	29	21	

415 31.3% White/Anglo

101 7.6% African American

686 51.7% Hispanic

60 4.5% Native American

21 1.6% Asian

43 3.2% Multi-racial

1326 100.0% Total

455 34.3% Non-Hispanic/Latino White (regardless of other races marked)

158 11.9% Black (regardless of Hispanic/Latino or other races marked)

686 51.7% Hispanic/Latino (regardless of races marked)

124 9.4% Native American (regardless of Hispanic/Latino or other races marked)

EXHIBIT B

Special Education- 2011-12 Specific Learning Disability

		White	Af. Am	Hispanic	Native Am	Asian	MultiRac
Total enrollment 2011-12	51,474	12,413 24.1%	2887 5.6%	31,574 61.3%	1961 3.8%	1322 2.6%	1317 2.6%
#enrolled in Special Education	7118	1917	459	4105	342	84	211
Rate	13.83%	15.44%	15.89%	13.00%	17.44%	6.35%	16.02%
Sp. Ed. Specific LD	3253	712	214	2018	202	28	79
Rate	45.70%	37.14%	46.62%	49.16%	59.06%	33.33%	37.44%
< or > than non-minority rate			>	>	>	<	>
>rate divided by < non-minority rate			125.52%	132.36%	159.01%		100.80%
If 120% or > Adverse Impact			Adverse impact indicated	Adverse impact indicated	Adverse impact indicated		No adverse impact indicated

EXHIBIT C

Special Education- 2011-12 Speech and Language Impaired

		White	Af. Am	Hispanic	Native Am	Asian	MultiRac
Total enrollment 2011-12	51,474	12,413 24.1%	2887 5.6%	31,574 61.3%	1961 3.8%	1322 2.6%	1317 2.6%
#enrolled in Sp. Ed./	7118	1917	459	4105	342	84	211
Rate	13.83	15.44	15.89	13.00	17.44	6.35	16.02
Sp. Ed. Speech/lang. Impaired	1178 16.54%	279 14.55%	47 10.24%	743 18.10%	54 15.78%	16 19.04%	39 18.48%
< or > than non-minority rate			<	>	>	>	>
>rate divided by < non-minority rate				124.39%	108.45	130.86%	127.01%
If 120% or > Adverse Impact				Adverse impact indicated	No adverse impact indicated	Adverse impact indicated	Adverse impact indicated

EXHIBIT D

Special Ed. 2011-12 Mild Mental Retardation

		White	Af. Am	Hispanic	Native Am	Asian	MultiRac
Total enrollment 2011-12	51,474	12,413 24.1%	2887 5.6%	31,574 61.3%	1961 3.8%	1322 2.6%	1317 2.6%
#enrolled in Sp. Ed.	7118	1917	459	4105	342	84	211
Rate	13.83%	15.44%	15.89%	13.00%	17.44%	6.35%	16.02%
Special Ed. Mild Mental Retardation	333 4.67%	87 4.53%	28 6.10%	186 4.53%	20 5.84%	2 2.38%	10 4.73%
< or > than non-minority rate			>		>	<	>
>rate divided by < non-minority rate			134.65%		128.91%		104.41%
If 120% or > Adverse Impact			Adverse impact indicated		Adverse impact indicated		No adverse impact indicated

CERTIFICATE OF SERVICE

I hereby certify that on November 9, 2012, I electronically submitted the foregoing Mendoza Plaintiffs' Memorandum in Support of Objections Asserted to Joint Proposed Unitary Status Plan Filed November 9, 2012; Declaration of Lois D. Thompson to the Office of the Clerk of the United States District Court for the District of Arizona for filing and transmittal of a Notice of Electronic Filing to the following CM/ECF registrants:

Heather K. Gaines
hgaines@dmyl.com

Nancy Woll
Nancy.woll@tusd1.org

Rubin Salter, Jr.
rsjr@aol.com

Zoe Savitsky
Zoe.savitsky@usdoj.gov

Anurima Bhargava
Anurima.bhargava@usdoj.gov

Special Master
Dr. Willis D. Hawley
wdh@umd.edu

Dated: November 9, 2012

By: s/ Lois D. Thompson
Lois D. Thompson